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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/088,959 | 07/30/2002 | Leon A. Lassovsky | LLB-10106/04 | 4899 |
| 7590 | 12/22/2003 | | | EXAMINER |
| Douglas L Wathen Gifford Krass Groh Sprinkle Anderson & Citikowski Suite 400 280 North Old Woodward Avenue Birmingham, MI 48009 | | | | NEGRON, ISMAEL |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2875 | |
| DATE MAILED: 12/22/2003 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/088,959 | LASSOVSKY, LEON A. |
| | Examiner | Art Unit |
| | Ismael Negron | 2875 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 July 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) 18 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2002924.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Title

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: **Luminaire Module having Multiple Rotatably Adjustable Reflector Holder.**

Abstract

2. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Objections

3. Claim 18 is objected to because of the following informalities: it recites the limitation "actuator drive" in line 7. There is insufficient antecedent basis for this limitation in the claim.

The cited lack of antecedent basis do not amount to indefiniteness under 35 U.S.C. 112, second paragraph, since is readily apparent that the claims are referring back to the previously recited "adjuster drive" (line 6). However, appropriate correction is required to place the claims in proper form for allowance.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,206,548 (LASSOVSKY). Although the conflicting claims are not identical, they are not patentably distinct from each other because one of ordinary skill in the art at the time the invention was made would have recognized that a second module located at the end of the luminaire frame opposite the first module is required for the operation of the patented luminaire assembly.

Claim 2 of the instant application are conflictive or coextensive with claim 2 of LASSOVSKY.

Claim 3 of the instant application are conflictive or coextensive with claim 3 of LASSOVSKY.

Claim 4 of the instant application are conflictive or coextensive with claim 7 of LASSOVSKY.

Claim 5 of the instant application are conflictive or coextensive with claim 8 of LASSOVSKY.

Claim 6 of the instant application are conflictive or coextensive with claim 4 of LASSOVSKY.

Claim 7 of the instant application are conflictive or coextensive with claim 5 of LASSOVSKY.

Claim 8 of the instant application are conflictive or coextensive with claim 6 of LASSOVSKY.

5. Claims 9-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,206,548 (LASSOVSKY). Although the conflicting claims are not identical, they are not patentably distinct from each other because one of ordinary skill in the art at the time the invention was made would have recognized that not only the patented luminaire of LASSOVSKY includes the modules claimed by the instant application, but such luminaire is essentially composed by only (emphasis added) the claimed modules.

Claim 10 of the instant application are conflictive or coextensive with claim 10 of LASSOVSKY.

Claim 11 of the instant application are conflictive or coextensive with claim 11 of LASSOVSKY.

Claim 12 of the instant application are conflictive or coextensive with claim 15 of LASSOVSKY.

Claim 13 of the instant application are conflictive or coextensive with claim 16 of LASSOVSKY.

Claim 14 of the instant application are conflictive or coextensive with claim 12 of LASSOVSKY.

Claim 15 of the instant application are conflictive or coextensive with claim 13 of LASSOVSKY.

Claim 16 of the instant application are conflictive or coextensive with claim 14 of LASSOVSKY.

6. Claim 17 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,206,548 (LASSOVSKY). Although the conflicting claims are not identical, they are not patentably distinct from each other because one of ordinary skill in the art at the time the invention was made that the patented slot need only extend enough along a portion of the housing to be able to engage the luminaire shell.

7. Claims 18-22 and 24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent No. 6,206,548 (LASSOVSKY) in view of LONG et al. (U.S. Pat. 4,979,550).

LASSOVSKY discloses a luminaire having:

- **a housing**, line 5;
- **a bulb**, implicit;

- **at least one bulb connector**, line 9;
- **the bulb being interconnected with the bulb connector**, implicit;
- **the connector being disposed in the housing**, line 9;
- **at least one adjustable reflector**, line 24; and
- **the adjustable reflector being for reflecting light from the light bulb**, implicit.

LASSOVSKY teaches all the limitations of the instant claims, except:

- an adjuster drive;
- the adjuster drive being for adjusting the position of the reflector;
- a remote control system;
- the remote control system being for controlling the actuator drive from a remote location;
- the remote control being operable to move the reflector to one of a plurality of positions;
- the remote control also including a photo sensor; and
- the remote control being a wireless remote control.

LONG et al. discloses a remote control system for blind, such system having :

- **a housing**, Figure 1, reference number 11;
- **at least one plate member**, Figure 1, reference number 12; and
- **an adjuster drive**, Figure 1, reference number 10;
- **the adjuster drive being for adjusting the position of the plate member**, column 3, lines 50-56;

- **a remote control system**, Figure 1, reference number 28a;
- **the remote control system being for controlling the adjuster drive from a remote location**, column 4, lines 34-46;
- **the remote control being operable to move the plate member to one of a plurality of positions**, column 3, lines 50-56;
- **the remote control also including a photo sensor**, Figure 5, reference number 22; and
- **the remote control being a wireless remote control**, Figure 1, reference number 28a.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the remote control system of LONG et al. with the Luminaire with adjustable reflector of LASCOVSKY to be able to control the orientation of the luminaire reflectors from a distance, as per the teachings of LONG et al. (see column 3, lines 7-13).

8. Claims 23 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent No. 6,206,548 (LASCOVSKY) in view of LONG et al. (U.S. Pat. 4,979,550) as applied to claim 20 above, further in view of RICHARDSON et al. (U.S. Pat. 5,194,782)

The combined teachings of LASCOVSKY and LONG et al. disclose individually, or suggest in combination, all the limitations of the claims, except a dimmable ballast operable with the remote control system.

RICHARDSON et al. discloses a dimming circuit for fluorescent lamp (Figure 4). It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the dimming circuit of RICHARDSON et al. with the apparatus of LASOVSKY and of LONG et al. to be able to control de orientation of the luminaire reflectors and the intensity of the light bulb from a distance, as per the teachings of LONG et al. (see column 1, lines 50-65).

Relevant Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellis (U.S. Pat. 3,646,877), **Klann** (U.S Pat. 3,646,985) and **Domei** (U.S. Pat. 6,062,290) disclosed motorized driving means for blinds, some having photo sensors for providing a control signal.

Grissom (U.S. Pat. 5,175,477) and **Nilssen** (U.S. Pat. 5,214,356) disclose fluorescent lamp dimmer circuits.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (703) 308-6086. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (703) 305-4939. The facsimile machine number for the Art Group is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Inr

December 14, 2003

A handwritten signature in black ink, appearing to read "Ismael Negron".